

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Digital Television Distributed Transmission	)	MB Docket No. 05-312
System Technologies	)	
	)	
	)	

To: The Commission

**COMMENTS OF THE  
ALLIANCE FOR LOCAL BROADCASTERS**

The Alliance for Local Broadcasters (the “Alliance”) hereby submits Comments in the above-captioned proceeding.<sup>1</sup> As described below, the Alliance supports the FCC’s proposal to adopt rules allowing broadcasters to deploy Distributed Transmission System (“DTS”) technologies to provide service to their authorized service areas on a primary basis and wholly within their Designated Market Areas (“DMAs”) on a secondary basis. The Alliance is concerned that DTS service should not be authorized in such a way that undermines the important contributions that boosters, translators and low-power stations make in helping to better serve local communities. Instead, DTS should provide broadcasters with another – but not the only -- means to improve that service.

Alliance members own and operate broadcast television stations throughout the United States in both large and small markets.<sup>2</sup> In addition to their full-service television stations,

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<sup>1</sup> In the Matter of Digital Television Distributed Transmission System Technologies, Clarification Order and Notice of Proposed Rulemaking, MB Docket No. 05-312 , 20 FCC Rcd 17797, (rel. Nov 4, 2005) (the “*NPRM*”). The *NPRM* was published in the Federal Register on December 7, 2005. See 70 FR 72673.

<sup>2</sup> The Alliance includes the following companies: Television Wisconsin, Inc. (licensee of WISC-TV, Madison, WI), Spokane Television, Inc. (licensee of KXLY-TV, Spokane, WA); Apple Valley Broadcasting, Inc. (licensee of KAPP-TV, Yakima, WA and KVEW-TV, Kennewick, WA); QueenB Television, LLC (licensee of WKBT-TV, La Crosse, WI); Cranston II, LLC (licensee of KMCC-TV, Laughlin, NV); SATV 10, LLC (proposed assignee of KTRG-TV, Del Rio, TX); Winstar Odessa, Inc. (licensee of KPXK-TV, Odessa, TX); Camino Real

Alliance members own and operate numerous booster, translator and low-power stations. The Alliance believes that DTS, properly implemented, has the potential to allow broadcasters to improve service to the public. However, the current proceeding is not an appropriate launching pad for a radical new approach to broadcast-style regulation, and the Commission should take a measured approach in licensing and implementing this technology.<sup>3</sup>

Establishing the appropriate location and service area for DTS operations is a critically important first step. The Alliance concurs with the FCC's determination in the *NPRM* that DTS should be afforded primary status within the station's Authorized Service Area, based on the proposed "table of distances" that the FCC deems to be "comparable to a theoretically maximized DTV service contour."<sup>4</sup> The Alliance agrees that "primary status within a licensee's service area is essential to obtain the benefits of spectrum efficiency offered by DTS techniques."<sup>5</sup> However, while the FCC has tentatively rejected the notion of permitting stations to use DTS to provide service to those portions of their DMA that are outside the coverage provided for the main station under the FCC's rules,<sup>6</sup> the Alliance believes that the FCC should permit broadcasters to operate DTS stations on a *secondary* basis in these areas within the DMA that are outside the station's Authorized Service Area.

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Communications, LLC (licensee of KPXA-CA, San Luis Obispo, CA); Bela TV, LLC (licensee of KBEH-TV, Oxnard, CA); and Phoenix 6 TV, LLC (licensee of KMOH-TV, Kingman, TX).

<sup>3</sup> There may come a time, for example, when area-wide rather than site-specific, licensing may make sense. *See, e.g., In the Matter of Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, 10 FCC Rcd 9589 (1995) at ¶ 1, 24-34 (allotting 487 geographic-area licenses for Multipoint Distribution Service on a Basic Trading Area basis). Given that television broadcasters are in the midst of a major transition to digital broadcasting and other current unknowns regarding DTS technology, that approach is best left for consideration after the transition ends.

<sup>4</sup> *See NPRM* at ¶¶ 19-20. For purposes of these Comments, "Authorized Service Area" is the same as the coverage proposed in paragraphs 19-24 of the *NPRM*. The Alliance would also support an alternative to the FCC's proposed coverage definition that reflects a service area for which a broadcaster could otherwise obtain an authorization for a single transmitter under the current rules.

<sup>5</sup> *Id.* at ¶ 12.

<sup>6</sup> *Id.* at ¶¶ 18-19.

This “secondary status” approach echoes the existing status of TV translator stations and serves the same basic objectives – namely, the provision of “fill-in” service to areas outside a full-service station’s Authorized Service Area. Moreover, this step would bring over-the-air broadcasts closer to parity with satellite and cable carriage of local broadcast stations across the station’s entire DMA.<sup>7</sup> In addition, network affiliation agreements and syndication agreements generally are negotiated on a DMA-wide basis, and authorization of DTS service throughout the DMA is a further reflection of this commercial reality.

While the FCC stated that “[w]e do not believe it is appropriate to expand significantly the coverage rights of some stations by allowing DTS operation anywhere within a station’s DMA,”<sup>8</sup> and expressed concerns about “expanded” primary coverage rights,<sup>9</sup> as described below, these stated concerns are addressed if DTS operations are granted on a secondary basis inside the DMA but outside a station’s Authorized Service Area. For example, the FCC has noted that “[m]any DMAs cover extensive areas and the DMA approach could allow some stations to provide service into communities 100 or more miles away from their current station location. Such service would be inconsistent with our traditional focus on localism.”<sup>10</sup> The Alliance respectfully disagrees. The FCC for years has authorized translator stations to rebroadcast the signal of a primary station outside the station’s service area on a secondary basis without undermining “localism.” There should be no different result with respect to DTS.<sup>11</sup>

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<sup>7</sup> See, e.g., 47 C.F.R. §76.55(c), (e) (2) (defining “local commercial television station” for carriage purposes as a station in the same local television market (based on DMA) as a cable system); §76.66(e) (equivalent market definition provision for satellite carriage).

<sup>8</sup> See *NPRM* at ¶ 18.

<sup>9</sup> *Id.* at ¶ 14.

<sup>10</sup> *Id.* at ¶ 18.

<sup>11</sup> The Alliance recommends that DTS facilities be authorized within the Authorized Service Area as a single license covering multiple transmission sites, while secondary DTS facilities located elsewhere in the DMA be authorized on a site-by-site basis.

Moreover, while the FCC expresses a concern that an “expansion” would “subvert [Section 73.623(h) of the] current licensing rules,”<sup>12</sup> this is not the case for authorization on a secondary basis. Section 73.623(h) provides processing and interference protection rules for full-power TV stations and allotments, analog and digital. Full-power stations are allocated and licensed on a primary basis, and the proposed secondary operations of DTS would have to give way in the event of harmful interference.

In addition, secondary DTS status would not negatively impact full-service DTV operations because broadcasters deploying DTS outside their Authorized Service Area would assume the risk of displacement in exactly the same way that translator stations do today.<sup>13</sup> Moreover, applicants would be permitted to apply for DTS service in filing windows in a manner similar to translator stations, and any mutually exclusive proposals would be subject to competitive bidding.<sup>14</sup> Opportunities to allocate new stations would not be reduced because new full-power station allotments would not be required to protect secondary DTS operations. Conferring secondary status on DTS operations outside the Authorized Service Area would instead harmonize a broadcaster’s efforts to deploy DTS technology with its settled expectations based on established service.

The Alliance believes that broadcasters should be afforded the greatest flexibility possible consistent with sound engineering practices in designing facilities to maximize service to viewers within their Authorized Service Area. Accordingly, the FCC should continue to

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<sup>12</sup> *Id.* (citing 47 C.F.R. § 73.623(h)).

<sup>13</sup> See, e.g., *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Report and Order, 19 FCC Rcd 19331 (rel. Sept. 30, 2004) at ¶ 142 (allowing LPTV, TV translators and Class A stations to seek digital companion channels on a secondary basis, stating that “we reject the claims of full-service broadcasters that our action will negatively impact their DTV operation ... As they have done throughout their history, LPTV and TV translator station operators will accept authorizations with the understanding that these may be displaced at a later day by a full-service broadcast station (e.g., a station operating on its post-transition DTV channel) and assume the risk associated with secondary status.”)

<sup>14</sup> See 47 C.F.R. § 73.3572(e); 47 C.F.R. § 73.5000(a).

authorize on-channel DTV translators and should authorize on-channel digital booster stations. The Alliance believes that at times the booster/translator approach will be more beneficial than DTS transmitters – for example, in some areas of the country, terrain shielding serves as a natural barrier. Despite its technical flexibility, DTS is not a one-size-fits-all solution. For example, depending on local circumstances, at times it may be more desirable for a broadcaster to deploy a single higher-power booster or translator station rather than multiple transmitters due to costs of, for example, negotiating tower lease rights, purchasing new equipment, or designing, building and maintaining a more complex multi-site DTS system. At other times, for example, high population density may justify using a lower-power DTS solution. Moreover, retaining the booster/translator option is consistent with Commission policy because the Commission has acknowledged that the FCC’s role is not to pick technological winners and losers to meet consumer demand, but rather to ensure that the marketplace “is conducive to investment, innovation, and meeting the needs of consumers.”<sup>15</sup>

Finally, the Commission should authorize full-power DTV stations to use digital boosters in order to give broadcasters further flexibility. While the Commission declined to establish a digital TV booster station class in the digital LPTV proceeding, it did so because of unresolved issues in the instant DTS proceeding. However, the instant proceeding is an opportune time for the FCC to address the issue, and the Alliance believes that digital boosters should be authorized. Among other things, on-channel digital TV translators are not an adequate substitute for boosters. While broadcasters may apply for booster facilities at any time on a first-come, first-served basis, new translator station applications may only be filed during an FCC-initiated filing

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<sup>15</sup> See *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 13 FCC Rcd 24011, 24014 (1998).

window.<sup>16</sup> Thus, the adoption of digital booster stations with the same processing rules as currently provided to analog boosters would permit broadcasters to expedite the provision of service enhancements within their Authorized Service Area.

The Alliance agrees with the Commission's conclusion that DTS has the potential to benefit consumers through improved service quality, better indoor reception and coverage advantages through signal-level uniformity and spectral efficiency.<sup>17</sup> The record is just as clear, however, that the DTS technology is still in its early stages and that many practical aspects of DTS operation have yet to be determined. Moreover, the final DTV Table of Allotments has yet to be established and the practical effects of DTV-to-DTV interference are not yet known. Accordingly, it would be inappropriate for the Commission at this time to adopt DTS as a wholesale substitute for established boosters and translators. Rather, the Alliance believes that DTS should supplement – not supplant – translator and booster service and that broadcasters should retain the flexibility to design and implement technical solutions that are tailored to their specific situations so long as those solutions otherwise are in compliance with FCC technical rules.

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<sup>16</sup> Compare 47 C.F.R. § 73.3572(g) (stating that booster station applications “may be filed at any time”) with 47 C.F.R. § 73.3572(e) (specifying a public notice period for filing of new translator stations and major modifications to such stations.)

<sup>17</sup> See *NPRM* at ¶ 8.

### **Conclusion**

In light of the foregoing, the Alliance for Local Broadcasters respectfully requests that the Commission adopt the rule changes proposed and discussed above.

Respectfully submitted,

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February 6, 2006